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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,979	12/01/2003	Jochim Koch	71131	4934
23872	7590	06/14/2005	EXAMINER	
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227			PATEL, NIHIR B	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,979

Applicant(s)

KOCH, JOCHIM

Examiner

Nihir Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on April 5th, 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-21 is/are allowed.
- 6) ☒ Claim(s) 22, 24, 26, 30, 31, and 35-37 is/are rejected.
- 7) ☒ Claim(s) 23, 25, 27-29 and 32-34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

Claims **1-21** are allowed.

Claims **23, 25, 27-29 and 32-34** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **22, 26 and 35-37** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemoine (US 1,983,475) in view Conzen Non Patent Document (Degradation of Inhalation Anaesthetics by CO₂ Absorbers).

Referring to claims **22, 26 and 35-37**, Lemoine discloses the applicant's invention as claimed with the exception of using calcium hydroxide as the carbon dioxide absorber. Conzen refresher courses on degradation of inhalation anaesthetics by CO₂ absorbers does state that calcium hydroxide can be used as a CO₂ absorbers (see lines 1 and 2 on page 1). Therefore it would have been obvious to modify Lemoine's invention by using calcium hydroxide absorber in order to improve the removal process of carbon dioxide.

Claims **24, 30 and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemoine (US 1,983,475) in view of Grabenkort (US 5,487,380).

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Referring to claims 24, 30 and 31, Lemoine discloses the applicant's invention as claimed with the exception of providing a gas delivery means that is positive displacement blower driven electrically or by compressed gas. Grabenkort discloses an exhaust gas filter and cooler that does provide a gas delivery means that is positive displacement blower driven electrically or by compressed gas. Therefore it would have been obvious to modify Lemoine's invention by providing a gas delivery means that is positive displacement blower driven electrically or by compressed gas in order to increase the cooling process.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (571) 272-4803. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (571) 272 4791.

NP
June 13th, 2005



Henry Bennett
Supervisor Patent Examiner
Group 3700